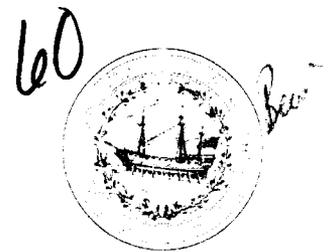




DEPARTMENT OF ENVIRONMENTAL SERVICES

Thomas S. Burack, Commissioner



June 16, 2014

Her Excellency, Governor Margaret Wood Hassan
and the Honorable Council
State House
Concord, New Hampshire 03301

Sole Source

REQUESTED ACTION

Authorize the Department of Environmental Services (DES) to enter into a sole source contract with MobileWright Solutions, Inc., Wakefield, MA, (Vendor No. #171053-B001) in the amount of \$12,420.00 to procure services to upgrade the Resource Conservation and Recovery Act Scanning (RCRA Scanning) software, effective upon Governor and Council approval through June 30, 2015. 100% Hazardous Waste Cleanup Fund.

Funding is available in the account as follows.

03-44-044-444010-5392-102-500731
Department of Environmental Services, Hazardous Waste Cleanup Fund, Contracts for Program Services
FY 15
\$12,420

EXPLANATION

This contract is sole source because MobileWright Solutions, Inc. is the original developer of the RCRA scanning software and has a favorable history providing services to DES. MobileWright is familiar with the DES IT network structure and has investigated the required modification to the software. DoIT requested cost estimates from other vendors. However, other vendors were not able to provide firm pricing due to the amount of time required to become familiar with the software and develop an appropriate solution. MobileWright Solutions Inc. is the most time and cost-effective option for this project. Further, DoIT does not currently have the staff or expertise to develop and implement the needed modifications.

The scheduled replacement of the DES Waste Management Division's (WMD) archival storage device (the Plasmon) necessitates an upgrade of the RCRA scanning software to assure continued functionality. The Plasmon and RCRA scanning software work together to transfer paper documents into digital formats and upload them into a digital library. The Plasmon is an antiquated computer storage system with inadequate storage capacity. DES is in the process of replacing the Plasmon with a virtual system customized to meet current and projected requirements. Operating the new system requires simultaneous updating and customization of the RCRA scanning software.

The WMD's Reporting and Information Management Section (RIMS) program is responsible for tracking all hazardous waste shipments in New Hampshire. The ability to digitally organize and access hazardous waste manifests, quarterly reports, and other documents is integral to program operations and compliance with the US Resource Conservation and Resource Act (RCRA).

The RCRA scanning software digitizes new documents, directs them to the correct location within the storage system and adds identifying information to facilitate future retrieval and access by other applications such as OneStop. The new system will accommodate the growing volume of documents submitted to the department and enable staff to upload emailed documents directly to the digital library. The original software did not include this

Her Excellency Governor Margaret Hassan
and the Honorable Council

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time-saving function as uploading from emails was not a common or envisioned practice at the time the software was developed. Documents sent by email are currently printed and scanned back into the system to facilitate digital posting. The software upgrade will improve efficiency, allow more productive use of limited resources and reduce the use of paper and toner. This upgrade will also advance efforts toward the development of a department-wide digital library.

This agreement has been approved by the Attorney General's Office as to form, substance and execution.

We respectfully request your approval.


Thomas S. Burack, Commissioner



STATE OF NEW HAMPSHIRE
DEPARTMENT OF INFORMATION TECHNOLOGY

27 Hazen Dr., Concord, NH 03301
Fax: 603-271-1516 TDD Access: 1-800-735-2964
www.nh.gov/doit

Peter C. Hastings
Commissioner

April 21, 2014

Thomas S. Burack, Commissioner
State of New Hampshire
Department of Environmental Services
29 Hazen Drive
Concord, NH 03301

Dear Commissioner Burack:

This letter represents formal notification that the Department of Information Technology (DoIT) has approved your agency's request to enter into a sole source contract with Mobile Wright Solutions, Inc., of Wakefield, MA (Vendor Code #171053-B001) as described below and referenced as DoIT 2014-120.

The request is to contract with Mobile Wright to provide design and development services to upgrade the RCRA scanning application software to current standards and deliver the solution for storage to the DES Harvest software vault. The contract will be effective from Governor and Council approval through June 30, 2015. The amount of the contract is not to exceed \$12,420.

A copy of this letter should accompany the Department of Environmental Services' submission to the Governor and Executive Council for approval.

Sincerely,

A handwritten signature in black ink that reads 'Peter C. Hastings'.

Peter C. Hastings

SWR/ltn
DoIT 2014-120

cc: Leslie Mason, IT Manager, DoIT
Chris Simmers, IT Manager, DoIT

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF ENVIRONMENTAL SERVICES
CONTRACT 2014-120
RCRA SCANNING UPGRADE
AGREEMENT- PART 1**

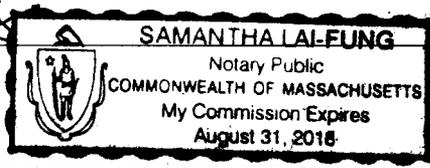
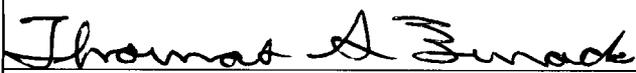
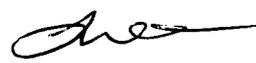
Subject: _____

AGREEMENT

The State of New Hampshire and the Contractor hereby mutually agree as follows:

GENERAL PROVISIONS

1. IDENTIFICATION.

1.1 State Agency Name Department of Environmental Services		1.2 State Agency Address 29 Hazen Drive, Concord, NH 03301	
1.2 Contractor Name MobileWright Solutions, Inc.		1.4 Contractor Address 27 Water Street, #204, Wakefield, MA 01880	
1.5 Contractor Phone Number 781-968-5245	1.6 Account Number 444010-5392-102	1.7 Completion Date June 30, 2015	1.8 Price Limitation \$12,420.00
1.9 Contracting Officer for State Agency Christopher Dunbar		1.10 State Agency Telephone Number 603-271-8740	
1.11 Contractor Signature 		1.12 Name and Title of Contractor Signatory Daniel Blake – President (Sole Proprietor)	
1.13 Acknowledgement: State of <u>MA</u> , County of <u>ESSEX</u> On <u>June 5, 2014</u> , before the undersigned officer, personally appeared the person identified in block 1.12, or satisfactorily proven to be the person whose name is signed in block 1.11, and acknowledged that s/he executed this document in the capacity indicated in block 1.12.			
1.13.1 Signature of Notary Public or Justice of the Peace [Seal] 			
1.13.2 Name and Title of Notary or Justice of the Peace <div style="text-align: right;">  </div>			
1.14 State Agency Signature 		1.15 Name and Title of State Agency Signatory Thomas S. Burack, Commissioner	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: _____ Director, On: _____			
1.17 Approval by the Attorney General (Form, Substance and Execution) By:  On: <u>6-27-2014</u>			
1.18 Approval by the Governor and Executive Council By: _____ On: _____			

2. EMPLOYMENT OF CONTRACTOR/SERVICES TO BE PERFORMED. The State of New Hampshire, acting through the agency identified in block 1.1 ("State"), engages contractor identified in block 1.3 ("Contractor") to perform, and the Contractor shall perform, the work or sale of goods, or both, identified and more particularly described in the attached EXHIBIT A which is incorporated herein by reference ("Services").

3. EFFECTIVE DATE/COMPLETION OF SERVICES.

3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, this Agreement, and all obligations of the parties hereunder, shall not become effective until the date the Governor and Executive Council approve this Agreement ("Effective Date").

3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed. Contractor must complete all Services by the Completion Date specified in block 1.7.

4. CONDITIONAL NATURE OF AGREEMENT.

Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds, and in no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate this Agreement immediately upon giving the Contractor notice of such termination. The State shall not be required to transfer funds from any other account to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable.

5. CONTRACT PRICE/PRICE LIMITATION/PAYMENT.

5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT B which is incorporated herein by reference.

5.2 The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance hereof, and shall be the only and the complete compensation to the Contractor for the Services. The State shall have no liability to the Contractor other than the contract price.

5.3 The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement

those liquidated amounts required or permitted by N.H. RSA 80:7 through RSA 80:7-c or any other provision of law.

5.4 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8.

6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/ EQUAL EMPLOYMENT OPPORTUNITY.

6.1 In connection with the performance of the Services, the Contractor shall comply with all statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal opportunity laws. In addition, the Contractor shall comply with all applicable copyright laws.

6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of race, color, religion, creed, age, sex, handicap, sexual orientation, or national origin and will take affirmative action to prevent such discrimination.

6.3 If this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all the provisions of Executive Order No. 11246 ("Equal Employment Opportunity"), as supplemented by the regulations of the United States Department of Labor (41 C.F.R. Part 60), and with any rules, regulations and guidelines as the State of New Hampshire or the United States issue to implement these regulations. The Contractor further agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with all rules, regulations and orders, and the covenants, terms and conditions of this Agreement.

7. PERSONNEL.

7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.

7.2 Unless otherwise authorized in writing, during the term of this Agreement, and for a period of six (6) months after the Completion Date in block 1.7, the Contractor shall not hire, and shall not permit any subcontractor or other person, firm or corporation with whom it is engaged in a combined effort to perform the Services to hire, any person who is a State employee or official, who is materially involved in the procurement, administration or performance of this Agreement. This provision shall survive termination of this Agreement.

7.3 The Contracting Officer specified in block 1.9, or his or her successor, shall be the State's representative. In the event of any dispute concerning the interpretation of this Agreement, the Contracting Officer's decision shall be final for the State.

8. EVENT OF DEFAULT/REMEDIES.

8.1 Any one or more of the following acts or omissions of the Contractor shall constitute an event of default hereunder ("Event of Default"):

8.1.1 failure to perform the Services satisfactorily or on schedule;

8.1.2 failure to submit any report required hereunder; and/or

8.1.3 failure to perform any other covenant, term or condition of this Agreement.

8.2 Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:

8.2.1 give the Contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) days from the date of the notice; and if the Event of Default is not timely remedied, terminate this Agreement, effective two (2) days after giving the Contractor notice of termination;

8.2.2 give the Contractor a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the contract price which would otherwise accrue to the Contractor during the period from the date of such notice until such time as the State determines that the Contractor has cured the Event of Default shall never be paid to the Contractor;

8.2.3 set off against any other obligations the State may owe to the Contractor any damages the State suffers by reason of any Event of Default; and/or

8.2.4 treat the Agreement as breached and pursue any of its remedies at law or in equity, or both.

9. ATA/ACCESS/CONFIDENTIALITY/PRESERVATION.

9.1 As used in this Agreement, the word "data" shall mean all information and things developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, computer programs, computer printouts, notes, letters, memoranda, papers, and documents, all whether finished or unfinished.

9.2 All data and any property which has been received from the State or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason.

9.3 Confidentiality of data shall be governed by N.H. RSA chapter 91-A or other existing law. Disclosure of data requires prior written approval of the State.

10. TERMINATION. In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall deliver to the Contracting Officer, not later than fifteen (15) days after the date of

termination, a report ("Termination Report") describing in detail all Services performed, and the contract price earned, to and including the date of termination. The form, subject matter, content, and number of copies of the Termination Report shall be identical to those of any Final Report described in the attached EXHIBIT A.

11. CONTRACTOR'S RELATION TO THE STATE. In the performance of this Agreement the Contractor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Contractor nor any of its officers, employees, agents or members shall have authority to bind the State or receive any benefits, workers' compensation or other emoluments provided by the State to its employees.

12. ASSIGNMENT/DELEGATION/SUBCONTRACTS. The Contractor shall not assign, or otherwise transfer any interest in this Agreement without the prior written consent of the N.H. Department of Administrative Services. None of the Services shall be subcontracted by the Contractor without the prior written consent of the State.

13. INDEMNIFICATION. The Contractor shall defend, indemnify and hold harmless the State, its officers and employees, from and against any and all losses suffered by the State, its officers and employees, and any and all claims, liabilities or penalties asserted against the State, its officers and employees, by or on behalf of any person, on account of, based or resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Contractor. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

14. INSURANCE.

14.1 The Contractor shall, at its sole expense, obtain and maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

14.1.1 comprehensive general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$1,000 per claim and \$1,000,000 per occurrence; and

14.1.2 fire and extended coverage insurance covering all property subject to subparagraph 9.2 herein, in an amount not less than 80% of the whole replacement value of the property.

14.2 The policies described in subparagraph 14.1 herein shall be on policy forms and endorsements approved for use in the State of New Hampshire by the N.H. Department of Insurance, and issued by insurers licensed in the State of New Hampshire.

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or his or her successor, a certificate(s) of insurance for all insurance required under this Agreement. Contractor shall also furnish to the Contracting Officer

identified in block 1.9, or his or her successor, certificate(s) of insurance for all renewal(s) of insurance required under this Agreement no later than fifteen (15) days prior to the expiration date of each of the insurance policies. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference. Each certificate(s) of insurance shall contain a clause requiring the insurer to endeavor to provide the Contracting Officer identified in block 1.9, or his or her successor, no less than ten (10) days prior written notice of cancellation or modification of the policy.

15. WORKERS' COMPENSATION.

15.1 By signing this agreement, the Contractor agrees, certifies and warrants that the Contractor is in compliance with or exempt from, the requirements of N.H. RSA chapter 281-A (*"Workers' Compensation"*).

15.2 To the extent the Contractor is subject to the requirements of N.H. RSA chapter 281-A, Contractor shall maintain, and require any subcontractor or assignee to secure and maintain, payment of Workers' Compensation in connection with activities which the person proposes to undertake pursuant to this Agreement. Contractor shall furnish the Contracting Officer identified in block 1.9, or his or her successor, proof of Workers' Compensation in the manner described in N.H. RSA chapter 281-A and any applicable renewal(s) thereof, which shall be attached and are incorporated herein by reference. The State shall not be responsible for payment of any Workers' Compensation premiums or for any other claim or benefit for Contractor, or any subcontractor or employee of Contractor, which might arise under applicable State of New Hampshire Workers' Compensation laws in connection with the performance of the Services under this Agreement.

16. WAIVER OF BREACH. No failure by the State to enforce any provisions hereof after any Event of Default shall be deemed a waiver of its rights with regard to that Event of Default, or any subsequent Event of Default. No express failure to enforce any Event of Default shall be deemed a waiver of the right of the State to enforce each and all of the provisions hereof upon any further or other Event of Default on the part of the Contractor.

17. NOTICE. Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses given in blocks 1.2 and 1.4, herein.

18. AMENDMENT. This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Executive Council of the State of New Hampshire.

19. CONSTRUCTION OF AGREEMENT AND TERMS.

This Agreement shall be construed in accordance with the laws of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assigns. The wording used in this Agreement is the wording chosen by the parties to express their mutual intent, and no rule of construction shall be applied against or in favor of any party.

20. THIRD PARTIES. The parties hereto do not intend to benefit any third parties and this Agreement shall not be construed to confer any such benefit.

21. HEADINGS. The headings throughout the Agreement are for reference purposes only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

22. SPECIAL PROVISIONS. Additional provisions set forth in the attached EXHIBIT C are incorporated herein by reference.

23. SEVERABILITY. In the event any of the provisions of this Agreement are held by a court of competent jurisdiction to be contrary to any state or federal law, the remaining provisions of this Agreement will remain in full force and effect.

24. ENTIRE AGREEMENT. This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire Agreement and understanding between the parties, and supersedes all prior Agreements and understandings relating hereto.

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF ENVIRONMENTAL SERVICES
RCRA SCANNING UPGRADE
CONTRACT 2014-120
EXHIBIT A - STATEMENT OF WORK**

1 INTRODUCTION

The State of New Hampshire ("State") desires to contract with MobileWright Solutions, Inc., of Wakefield, MA to procure 'RCRA Scanning Upgrade' services to enable DES to modernize a capture and storage imaging application.

The Contract price is \$12,420

2 CONTRACT DOCUMENTS

This Contract consists of the following documents ("Contract Documents") in order of precedence:

- a. *State of New Hampshire Terms and Conditions, General Provisions Form P-37*
- b. Exhibit A Statement of Work
- c. Exhibit B Payment Schedule –Fixed Price
- d. Exhibit C Special Provisions
- e. Attachment A, Vendor Quote

3 SCOPE OF SERVICES

MobileWright shall provide the State the Services and Deliverables required under this Contract, as set forth Exhibit B, *Payment Schedule-Fixed Price*.

4 TERM

4.1 Period of Performance

The Contract shall take effect after full execution by the parties, and the receipt of required governmental approvals, including, but not limited to, Governor and Executive Council approval.

The Contract will begin on the Effective Date and extend through June 30, 2015. The Term may be extended for additional periods of one (1) years, ("Extended Term") at the sole option of the State, subject to the parties' prior written agreement on applicable fees for each extended term.

4.2 Termination for Convenience

Notwithstanding the foregoing, the State may terminate this Contract, at its sole discretion, for any reason upon thirty (30) days written notice to MobileWright. Upon termination for convenience, MobileWright shall refund any unused portion of the Contract to the State.

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF ENVIRONMENTAL SERVICES
RCRA SCANNING UPGRADE
CONTRACT 2014-120
EXHIBIT A - STATEMENT OF WORK**

CONTRACT ADMINISTRATION

4.3 Vendor Contract Manager

MobileWright shall designate a Contract Manager who shall be responsible for all contractual authorization and administration under the Contract. This person is:

Daniel Blake
MobileWright Solutions, Inc.
27 Water St #204
Wakefield, MA, 01880
Tel: 617-852-7590
Email: dan@mobilewright.com

4.4 State Contract Manager

The State shall designate a Contract Manager who shall function as the State's representative with regard to Contract administration. This person is:

Christopher Dunbar
Department of Information Technology
29 Hazen Drive
Concord, NH 03304
Tel: 603-271-8740
Christopher.Dunbar@doit.nh.gov

4.5 Statement of Work, Deliverables and Work Plan

MobileWright shall perform the Services and provide the Deliverables described in this Contract, including but not limited to, the MobileWright Sales Quote # 0123, dated May 5, 2014.

5 SOFTWARE INTERNAL SECURITY

Mobile Wright shall provide clean and healthy Software that shall not contain any viruses, destructive programming, known programming weaknesses to intrusion or mal intent use, or mechanisms designed to disrupt the performance of the Software in accordance with the Specifications.

As a part of **MobileWright's** development process, **MobileWright** will use best efforts to inoculate and harden the software against vulnerability to infection, intrusion, or any use other than the intended use by the State.

6 IMPLEMENTATION

Implementation is more fully described in Attachment A - Sales Quote: 0123 and Attachment C - IT Required Work Procedures.

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF ENVIRONMENTAL SERVICES
RCRA SCANNING UPGRADE
CONTRACT 2014-120
EXHIBIT A - STATEMENT OF WORK**

6.1 SUPPORT OBLIGATIONS AND TERM

MobileWright will not be responsible for performing on-site or remote technical support for the delivered application beyond the warranty period, in accordance with the Contract Documents, including without limitation the requirements, terms, and conditions contained herein. Support for the delivered application will be provided by the State.

7 ADDITIONAL TERMS AND CONDITIONS

7.1 INTELLECTUAL PROPERTY RIGHTS, AND CONFIDENTIALITY

MobileWright agrees to maintain the confidentiality of, and to protect from unauthorized use, disclosure, publication, and reproduction, all confidential information of the State that becomes available to **MobileWright** in connection with its performance under the Contract.

MobileWright shall not use any information obtained from the State during the performance of the Contract, except as is directly connected to and necessary for **MobileWright's** performance under the Contract. Any disclosure of the State's confidential information shall require prior written approval of the State. Information shall include, but not be limited to all data, record telecommunications content, studies, reports, written and software data files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, notes, letters, memoranda, papers, and documents, all whether finished or unfinished. The State's confidential information includes but is not limited to information of the State that is not predetermined to be subject to public disclosure under the laws of the State of New Hampshire.

MobileWright shall immediately notify the State if a subpoena or other legal process is served upon **MobileWright** regarding the State's confidential information, and **MobileWright** shall cooperate with the State in any effort it undertakes to contest the subpoena or other legal process. In the event of unauthorized use or disclosure of the State's confidential information, **MobileWright** shall immediately notify the State, and the State shall immediately be entitled to pursue any remedy at law or in equity, including, but not limited to injunctive relief.

Insofar as **MobileWright** seeks to maintain the confidentiality of its confidential or proprietary information, **MobileWright** must clearly identify in writing the information it claims to be confidential or proprietary. **MobileWright** acknowledges that the State is subject to the Right to Know Law, RSA Chapter 91-A. The State shall maintain the confidentiality of the identified confidential or proprietary information insofar as it is consistent with applicable state and federal law, including but not limited to, RSA Chapter 91-A. In the event the State receives a request for the information identified by **MobileWright** as confidential or proprietary, the State shall notify **MobileWright** and specify the date the State will be releasing the requested information. Any effort to prohibit or enjoin the release of the information shall be **MobileWright's** responsibility and at **MobileWright's** sole expense. If **MobileWright** fails to obtain a court order enjoining the disclosure, the State shall release the information on the date specified in the State's notice

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF ENVIRONMENTAL SERVICES
RCRA SCANNING UPGRADE
CONTRACT 2014-120
EXHIBIT A - STATEMENT OF WORK**

to **MobileWright**, without liability to **MobileWright**.

The State shall hold all ownership, title, and rights in any Custom Software developed in connection with performance of obligations under the Contract, or modifications to the Software, and their associated Documentation including any and all performance enhancing operational plans and Vendors' special utilities. The State shall have sole right to produce, publish, or otherwise use such Software, modifications, and Documentation developed under the Contract and to authorize others to do so.

In no event shall the Contracted Vendor be precluded from developing for itself, or for others, materials that are competitive with, or similar to the Deliverables developed in connection with performance of obligations under the Contract. In addition, the Contracted Vendor shall be free to use its general knowledge, skills, experience, and any other ideas, concepts, know-how, and techniques that are acquired or used in the course of its performance under this agreement."

MobileWright agrees to defend and indemnify and hold harmless the State in the event of any such infringement claim against the State.

This section 7.1 shall survive the termination of the Contract.

8 PROJECT HOLDBACK

The State shall withhold ten percent (10%) of the price for each Deliverable, except Software license fees, until successful conclusion of the Warranty Period.

9 FORCE MAJEURE

Neither **MobileWright** nor the State shall be responsible for delays or failures in performance resulting from events beyond the control of such party and without fault or negligence of such party. Such events shall include, but not be limited to, acts of God, strikes, block outs, riots, acts of War, epidemics, acts of Government, fire, power failures, nuclear accidents, earthquakes, and unusually severe weather.

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF ENVIRONMENTAL SERVICES
RCRA SCANNING UPGRADE
CONTRACT 2014-120
EXHIBIT A - STATEMENT OF WORK**

10 PARTICIPATION

MobileWright has read and agrees to all procedures as contained Contract Attachment C Required Work Procedures.

11 INTERNAL ESCALATION PROCEDURE FOR DISPUTES

Prior to the filing of any formal proceedings with respect to a dispute (other than an action seeking injunctive relief with respect to intellectual property rights), the party believing itself aggrieved (the "Invoking Party") shall call for progressive management involvement in the dispute negotiation by written notice to the other party. Such notice shall be without prejudice to the Invoking Party's right to any other remedy permitted by this Agreement.

The parties shall use all reasonable efforts to arrange personal meetings and/or telephone conferences as needed, at mutually convenient times and places, between negotiators for the parties at the following successive management levels, each of which shall have a period of allotted time as specified below in which to attempt to resolve the dispute:

Dispute Resolution Responsibility and Schedule Table

Level	MobileWright	The State	Cumulative Allotted Time
First	Dan Blake	Chris Dunbar	5 Business Days
Second	Dan Blake	Pam Hoyt-Dennison	10 Business days
Third	Dan Blake	Thomas S. Burack	15 Business days

The allotted time for the first level negotiations shall begin on the date the Invoking Party's notice is received by the other party. Subsequent allotted time is days from the date that the original Invoking Party's notice is received by the other party.

STATE OF NEW HAMPSHIRE
DEPARTMENT OF ENVIRONMENTAL SERVICES
RCRA SCANNING UPGRADE
CONTRACT 2014-120
EXHIBIT A - STATEMENT OF WORK

12 ASSIGNMENT, DELEGATION and SUBCONTRACTS

MobileWright shall not assign, delegate or otherwise transfer any of its interest, rights, or duties under the Contract without the prior written consent of the other party. Such consent will not be unreasonably withheld. Any attempted transfer, assignment, delegation, or other transfer made without the State's prior written consent shall be null and void.

MobileWright shall remain wholly responsible for performance of the entire Contract regardless of whether assignees, delegates, Subcontractors or other transferees ("Successor") are used, unless otherwise agreed to in writing by the State and the Successor fully assumes in writing any and all obligations and liabilities under the Contract. In the absence of a written assumption of full obligations and liabilities of the Contract, any permitted assignment, delegation, subcontract or other transfer shall not relieve **MobileWright** of any of its obligations under the Contract; not affect any remedies available to the State against **MobileWright** that may arise from any event of default of the provisions of the Contract; and the State will consider **MobileWright** to be the sole point of contact with regard to all contractual matters, including payment of any and all charges resulting from the Contract.

13 THE CONTRACTOR'S RELATION TO THE STATE

In the performance of the Contract, **MobileWright** is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither **MobileWright**, nor any of its officers, employees, agents, or members shall have authority to bind the State or receive any benefits, worker's compensation or other emoluments provided by the State to its employees.

14 WARRANTY

14.1 WARRANTY PERIOD

The Warranty Period shall commence upon the State's issuance of a Letter of Acceptance for the UAT and extend for sixty (60) days.

If within the last thirty (30) calendar days of the Warranty Period, the Software fails to operate in accordance with its Specifications, the Warranty Period will cease, **MobileWright** shall correct the Deficiency, and a new 15 day Warranty Period will begin. Any further Deficiencies with the Software must be corrected and run fault free for 15 consecutive calendar days.

MobileWright shall repair or replace Software in accordance with the Specifications and terms and requirements of the Contract;

**STATE OF NEW HAMPSHIRE
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EXHIBIT A - STATEMENT OF WORK**

MobileWright shall maintain a record of the activities related to warranty repair or maintenance activities performed for the State including 1) nature of the Deficiency; 2) current status of the Deficiency; 3) action plans, dates, and times; 4) expected and actual completion time.

MobileWright further warrants that the software Deliverables shall operate in accordance with its specifications. If the State finds any software Deliverable defective, in any way, for any reason, **MobileWright** shall repair or replace within forty eight (48) hours of receiving notice from the State, excluding Saturdays, Sundays and Holidays, at no additional expense to the State, the software Deliverable or any portion thereof that the State has identified as defective.

14.2 Viruses; Destructive Programming

MobileWright warrants that the Software shall not contain any viruses, destructive programming, or mechanisms designed to disrupt the performance of the Software in accordance with the Specifications.

14.3 Compatibility

MobileWright warrants that all System components, including but not limited to the components provided, including any replacement or upgraded System Software components provided by MobileWright to correct Deficiencies or as an Enhancement, shall operate with the rest of the System without loss of any functionality.

MobileWright warrants that Software delivered will be compatible with Open Standards as specified in RSA 21-R:10 and 21-R:13, including but not limited to Open Data Formats.

14.4 Services

MobileWright warrants that all Services to be provided under the Contract will be provided expeditiously, in a professional manner, in accordance with industry standards and that Services will comply with performance standards, Specifications, and terms of the Contract. MobileWright warrants that the Services and Deliverables furnished under this Contract do not infringe any patent, copyright, trade secret or other intellectual property rights.

a. Class A Deficiencies - The Vendor shall have available to the State on-call telephone assistance, with issue tracking available to the State, or the Vendor shall provide support on-site or with remote diagnostic Services, within 72 business hours of a request;

b. Class B & C Deficiencies -The State shall notify the Vendor of such Deficiencies during regular business hours and the Vendor shall respond back within 72 hours of notification of planned corrective action;

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14.5 Personnel

MobileWright warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.

MobileWright must work with the State to identify and troubleshoot potentially large-scale System failures or Deficiencies by collecting the following information: 1) mean time between reported Deficiencies with the Software; 2) diagnosis of the root cause of the problem; and 3) identification of repeat calls or repeat Software problems.

If **MobileWright** fails to correct a Deficiency within the allotted period of time stated above, **MobileWright** shall be deemed to have committed an Event of Default, and the State shall have the right, at its option, to pursue the remedies as outline in the Contract Agreement, Section 8,

Part 1, as well as to return **MobileWright's** product and receive a refund for all amounts paid to **MobileWright**, including but not limited to, applicable license fees, within ninety (90) days of notification to **MobileWright** of the State's refund request

15 TERMINATION

Either party may terminate this Contract at any time if the other party is in default of its obligations under this Contract and such default remains unremedied for a period of 30 days from the date of receipt of notice of default by the non-defaulting party. Such right of termination shall be in addition to all other rights and remedies to which the parties are entitled. Events of default shall include, without limitation: MobileWright breach of or failure to perform any warranty or other obligation contained in the Contract; or MobileWright ceasing to conduct Maintenance and Support Services.

**STATE OF NEW HAMPSHIRE
EXHIBIT B - PRICING
CONTRACT 2014-120
RCRA SCANNING UPGRADE**

1. DELIVERABLE PAYMENT SCHEDULE.

All charges by **MobileWright** under this Contract shall be at a fixed price in accordance with the schedules set forth in Table 1 below.

2. FIXED PRICE PAYMENT SCHEDULE

Table 1: Payment Schedule:

Deliverable	Date	Payment Amount
Build /validate a development/ test environment for image services. <ul style="list-style-type: none"> • Build and install all the code in the development environment. This environment should be kept up to date for all future testing/development. 	August 30, 2014	\$2,178
Develop the software fixes <ul style="list-style-type: none"> • Develop a File Import Utility for the RCRA scanning software in the development environment. Modify the server software/indexes to handle a non-batched RCRA documents. • Modify the RCRA scanning software to upload PDFs. Possibly generate PDFs natively otherwise convert TIFs to PDF on the client (user desktop computer). The conversion of TIF to PDF may require a third party software utility (at additional cost to DES). • Modify the RCRA server software to remove utilities that process TIF type files. Disallow submission of TIF files. 	October 30, 2014	\$3,600
Test and deploy solution <ul style="list-style-type: none"> • Test all changes in the development environment • Provide installation and configuration documentation • Provide NH DES IT staff with detailed written and verbal description of how all the image services components work. • Support deployment of the updated solution to production 	December 30, 2014	\$5,400

**STATE OF NEW HAMPSHIRE
EXHIBIT B - PRICING
CONTRACT 2014-120
RCRA SCANNING UPGRADE**

HOLDBACK		\$1,242
Total Cost		\$12,420

Notwithstanding any other provision of this Contract, in no event shall the total payment made by the State of NH exceed \$12,420

3. PAYMENTS

The State shall pay **MobileWright** within thirty (30) calendar days of the State's receipt of a correct and undisputed invoice.

**STATE OF NEW HAMPSHIRE
EXHIBIT C- SPECIAL PROVISIONS
CONTRACT 2014-120
RCRA SCANNING UPGRADE**

1.1. Special Provisions

Both parties agree to amend section 14 for insurance in the SOW of the Contract 2010-120 in order to show the amount of insurance is in agreement with MobileWright Solutions Inc's coverage currently in force for comprehensive general liability in the amount of \$1,000,000.00 for each occurrence and the excess/umbrella liability in the amount of \$1,000.00 for each occurrence.

Attachment A



Sales Quote: 0123

MobileWright Solutions, Inc.
27 Water Street #204
Wakefield, MA 01880
781-968-5245

Re: Image Services Upgrade
Quote To: Chris Dunbar (State of New Hampshire OIT)
781-968-5245

Date: 05/05/2014
Quote Number: 0123

We quote to furnish the scope of work listed below for a fixed price of:
Twelve Thousand Four Hundred and Twenty Dollars (\$12,420)

Build/validate the development/test environment

Scope of Work:

- Gather the "right" version of the code
- Build and install all the code in the development environment. This environment should be kept up to date for all future testing/development.
- If possible, hook up the old scanner (or ideally another scanner that is the same model as the current in production) to the RICRA stuff in this development environment.

Develop the fixes

Scope of Work:

- Develop a File Import Utility for RICRA in the development environment. Modify the server software/indexes to handle a non-batched RICRA documents.
- Modify the RICRA scanning software to upload PDFs. Possibly generate PDFs natively otherwise convert TIFs to PDF on the client. The conversion of TIF to PDF may require a third party software utility (at additional cost to DES).
- Modify server software to remove utilities that process TIF type files. Disallow submission of TIF files.

Testing and deployment

Scope of Work:

- Test all changes in the development environment
- Provide installation and configuration documentation
- Provide NH DES IT staff with a detailed description of how all the image services components work.
- Support deployment of the updated solution to production

Scope of Work Clarifications:

- The work will be completed over 6-12 weeks
- This is a custom software project modifying an existing system and as such no long term warranty applies. MobileWright will fix issues related to the new work for 60 days after the completion of the project.
- MobileWright assumes that the NH DES IT will help to configure the other development systems to utilize the image services development instance.
- MobileWright assumes that the NH DES IT will perform all deployment tasks related to production servers. MobileWright will provide any needed support and verification.

PLEASE CALL IF INCOMPLETE

NOTE: Quote is valid for 120 days unless otherwise noted.

Submitted By: MobileWright Solutions

Representative Signature: Dan Blake, President
Date: 05/05/2014

Accepted for: State of NH

By: _____

Customer Signature

Date _____ PO# _____

ATTACHMENT B

1. IT Required Work Procedures

1. All work done must conform to standards and procedures established by the Department of Information Technology and the State.
2. All products developed (requirements, Specifications, Documentation, program code, other) are work for hire and ownership is in accordance with the New Hampshire Contract Terms and Conditions.
3. Any technical education needed by MobileWright Solutions, Inc., to successfully complete the assumed assignment will be at the sole expense of MobileWright Solutions, Inc., and provided by MobileWright Solutions, Inc.

2. Computer Access and Use Agreement

PLEASE READ THIS AGREEMENT CAREFULLY. IT CONTAINS IMPORTANT INFORMATION ABOUT THE DUTIES YOU MUST UNDERTAKE AND THE RULES YOU MUST ADHERE TO ONCE YOU ARE GRANTED ACCESS TO USE THE STATE OF NEW HAMPSHIRE'S COMPUTER FACILITIES.

2.1 Computer Use

In consideration for receiving access to and use of the computer facilities, network, licensed or developed software, software maintained or operated by any of the State entities, systems, equipment, Documentation, information, reports, or data of any kind (hereinafter "Information"), User understands and agrees to the following rules:

- That numerous security and privacy regulations, both State and federal apply to client and business information contained in all State of New Hampshire's information systems. Every Authorized User has the responsibility to assure the protection of Information from unauthorized access, misuse, theft, damage, destruction, modification, or disclosure.
- That any person or any use not specifically known by the User as being authorized to access or use Information shall be promptly reported to the appropriate supervisor.
- That information shall be used solely for conducting official State business, and all other use or access is strictly forbidden including, but not limited to, personal, or other private and non-State use.
- That at no time shall User access or attempt to access any information without having the express authority to do so.
- That at no time shall User access or attempt to access any information in a manner inconsistent with the approved policies, procedures, and /or agreements relating to system entry/access.
- That all software licensed, developed, or being evaluated by the State cannot be copied, shared, distributed, sub-licensed, modified, reverse engineered, rented, or sold, and that at all times User must use utmost care to protect and keep such software strictly confidential in accordance with the license or any other Agreement executed by the State.
- That only equipment or software owned, licensed, or being evaluated by the State, can be used by User. Personal software (including but not limited to palmtop sync software) shall not be installed on any equipment.

- That at no time shall User's confidential computer password(s) or premises access card be shared with or used by any other person.
- That at no time shall User share or use another person's confidential computer password(s) or premises access card.
- That at no time shall User leave a workstation without first ensuring that the workstation is properly secured from unauthorized access.
- That User must report any and all violations of this Agreement to the appropriate supervisor promptly upon learning of such violation.
- That if User is found to be in violation of any of the above-stated rules, the User may face removal from the State contract, and/or criminal or civil prosecution, if the act constitutes a violation of law.
- That from time to time circumstances may require that this Agreement be modified by the State to reflect any changes in procedure or policy. The User will be notified in writing of any changes and will be required to adhere to such changes.
- That the User acknowledges that he or she has read, fully understands, and agrees to abide by each of the above-stated rules as a condition of being granted access to use Information.

2.2 Email Use

Mail and other electronic communication messaging systems are State of New Hampshire property and are to be used for business purposes only. Email is defined as "internal Email systems" or "State-funded Email systems". The Authorized User understands and agrees that email shall not contain or be used for:

1. Any unlawful purpose.
2. Material that may be viewed as insulting. Demeaning, harassing or threatening (including sexual harassment).
3. Distribution of pornographic or obscene material.
4. Profane or abusive language.
5. Distribution of non-business materials including but not limited to jokes, chain letters, cartoons, sound files, amusement or entertainment purposes or executables not specifically business related.
6. Creating or transmitting statements, messages, languages, images, that might constitute hostile or offensive material likely to be disparaging of others based on race, national origin, sex, sexual orientation, age, disability, religious beliefs, or political beliefs.
7. Personal business or commercial business.
8. Invasion of the privacy of others.
9. Any use that compromises the integrity of the systems, network, other network users, or any interruption or disruption of services or equipment.

10. Any use that reflects poorly on a State entity or the State of New Hampshire.
11. Any lobbying contact or effort in support of such contacts, or causing others to make contact with members of the legislature or legislative committees including but not limited to: preparation and planning activities, research, and other background work that is intended at the time performed, to influence the approval, modification, or rejection of any legislation by the legislature of the State of New Hampshire or any committee thereof without the explicit consent of the Chief Information Officer (CIO) or its designee.
12. Misrepresentation of the Authorized User's identity, including using another's Authorized User ID and password.

Technical support personnel shall not review the content of an Authorized User's communications out of personal curiosity or at the behest of another without the required authorization. Authorized Users shall not intercept, disclose or assist in intercepting or disclosing any electronic communications, except as authorized by this policy.

Authorized Users shall move important information from email message files to shared folders and drives to ensure proper backup. Messages no longer needed shall be purged periodically from personal storage areas. Technical support personnel shall monitor storage usage and advise when limits are approaching storage limits or have been reached and purging is required.

2.3 Internet/Intranet Use

The Internet/Intranet is to be used for access to and distribution of Information in direct support of the business of the State of New Hampshire.

1. Authorized Users are given State provided access to Internet and Intranet resources to assist them in the performance of their jobs.
2. Internet/Intranet Authorized Users are responsible for all material accessed under their user ID.
3. Software for browsing is provided to Authorized Users for State related business use only.
4. The Authorized User understands and agrees that the Internet/Intranet shall not be used for:
 - a. Chat rooms, interactive games, and personal message boards
 - b. Downloading graphics, sound files, video clips or other files for personal use
 - c. Access to or the distribution of pornographic or obscene materials
 - d. Anything that interrupts or disrupts other network Authorized Users, services or equipment
 - e. Violations of the privacy of other Authorized Users or their data
 - f. Intentional copying of any software, program(s), or data without a prior, good faith determined that such copying is permissible. (Efforts to obtain permission shall be documented)

- g.** Intentional misrepresentation of yourself electronically as another, unless specifically authorized to do so by that Authorized User
- h.** Intentionally developing programs designed to harass users or to infiltrate a computer or computing system and/or damage or alter the software components of same
- i.** Fund raising or public relations activities not specifically related to State business
- j.** Any purpose not directly related to the mission or intent of the agency

State of New Hampshire Department of State

CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that MobileWright Solutions, Inc. a(n) Delaware corporation, is authorized to transact business in New Hampshire and qualified on June 5, 2006. I further certify that all fees and annual reports required by the Secretary of State's office have been received.



In TESTIMONY WHEREOF, I hereto set my hand and cause to be affixed the Seal of the State of New Hampshire, this 30th day of April, A.D. 2014

A handwritten signature in cursive script, appearing to read "William M. Gardner".

William M. Gardner
Secretary of State

